

**Rationale to Support Proposed Legislation for the Protection of
Intelligence Data**

The protection of classified intelligence is dependent upon prompt and stringent punitive action against a wrongdoer. However, prosecutive action is limited because present laws and court interpretations thereof require the disclosure, in open court, of the very information security is trying to protect when prosecutive action is instituted. From a security standpoint, the inability to prosecute without publicly disclosing the classified information concerned renders meaningless, for those persons inclined to misuse classified information, the security oaths, secrecy agreements and security regulations governing classified intelligence. In most cases, the only effective action that the head of an intelligence department may employ against a staff employee guilty of misusing classified information are administrative disciplinary measures, the most potent of which would be separation from employment.

In the case of former staff employees of Government who have had access to classified intelligence, even these recourses are removed and an ex-employee so inclined can misuse classified intelligence information with a reasonable assurance that he is immune from legal prosecutive action. The inability of the Government to clearly enforce the necessary

protection of classified intelligence clearly weakens the entire security protective system. The vast majority of Government staff employees faithfully observe all security requirements in affording classified intelligence the necessary security protection. However, the situation whereby employees who willingly or through carelessness misuse classified intelligence with some impunity and without resultant prosecutive action tends to create an atmosphere of discouragement and hopelessness among those other employees who are morally and personally concerned with the proper security protection of intelligence in the interests of the national security.

As a corollary to this problem, the misuse of classified intelligence frequently results in the compromise of highly sensitive and productive sources and methods of intelligence. In certain instances, these compromises have resulted in severe and grave damage to the intelligence effort and have permitted or caused the opposition to take security counteractions which denies to the national intelligence effort sensitive, timely intelligence which is so critical to the national intelligence effort.

The inability of the Government to prosecute is flaunted by those individuals who threaten disclosure of classified information. This has been of particular concern where there has been a misappropriation

of confidential Government funds. The Government has no effective legal remedy except to make a personal appeal, where possible, to the individual not to take any action which would harm national security. This appeal is not always successful and even if successful, the individual concerned represents a continual security threat. A broad injunctive authority would permit the taking of timely and effective legal action to prevent such threatened action from being carried out.